D.A.C.
See Listing

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)   ATTY'S DKT: GILAD2B
)
GILAD et al.   )   January 6, 2004
)
Appln. No.:   09/833,031   )
)   Washington, D.C.
Filed: April 11, 2001   )
)   Conf. No.   8372
For: METHOD FOR ENRICHMENT...   )
)   Attn: PETITIONS

PETITION TO VACATE HOLDING OF ABANDONMENT[1]

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Applicants are in receipt of the Notice of Abandonment, mailed December 12, 2003, which **erroneously** states that the application is abandoned because of applicants failure to file a reply within the time period established by the Notice to File Missing Parts, dated October 22, 2001.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

THE FACTS

The Notice to File Missing Parts dated October 22, 2001, was actually a **Withdrawal** of Previously Sent Notice and a

---

[1]   If a fee must be charged, please charge same to Deposit Account No. 02-4035, and **then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.**

RECEIVED

JAN 0 8 2004

OFFICE OF PETITIONS

Notice to Comply with Requirements for Patent Applications

Containing Nucleotide Sequence and/or Amino Acid Sequence

Disclosures. The notice entitled "Withdrawal of Previously

Sent Notice" withdrew the Notice previously mailed on October

2, 2001, which was a "Notice of Incomplete Reply". Said

"Notice of Incomplete Reply" indicated that the content of the

computer readable form of the sequence listing previously

submitted did not comply. The deadline for responding to the

"Notice of Incomplete Reply" continued to run from the

original Notice to File Missing Parts dated June 7, 2001.

Thus, the next deadline for responding to the "Notice of

Incomplete Reply" was October 7, 2001.

Applicants timely responded. Thus, in response to the

"Notice of Incomplete Reply", a substitute sequence listing

meeting all the requirements as set forth in the Notice of

Incomplete Reply was filed on October 5, 2001, along with a

petition for a two months extension of time and the required

petition fee of $200.00.

When the "Withdrawal of Previously Sent Notice and the

Notice to Comply…" dated October 22, 2001, were received, the

undersigned reviewed the requirements and determined that it

was just a reiteration of the requirements previously set

forth in the "Notice of Incomplete Reply". The only

difference between the two notices was the time period for

response. As a fully responsive reply had already been filed on October 5, 2001, nothing further needed to be filed, as the proper paper sequence had already been submitted.

As evidence that such proper paper sequence was timely and properly filed on October 5, 2001, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on October 5, 2001.

As it appears that the Response filed on October 5, 2001, has been lost by and in the PTO, attached hereto is a duplicate copy of the Response [entitled "Response to Notice of Incomplete Reply (Nonprovisonal)] dated October 5, 2001, freshly re-signed and related papers. **No further fees are required at this time.**
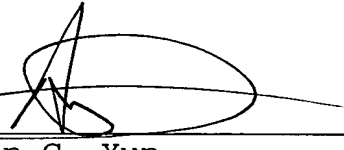
REMARKS

In view of the above evidence, it is clear that a Reply was timely and properly filed within the time period established by the Notice of Incomplete Reply, dated October 2, 2001, and the Notice to Comply dated October 22, 2001, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It is accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.
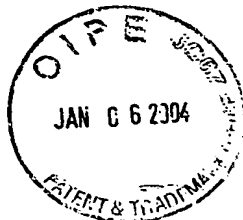
BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By _____
Allen C. Yun
Registration No. 37,971

ACY:edg
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\Q\QBI\Gilad2B\PTO\patent erroneous abandonment.doc

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	**Box Sequence**
	)	
Shlomit GILAD et al.	)	Examiner:
	)	
Appln. No.: 09/833,031	)	Washington, D.C.
	)	
Filed: April 11, 2001	)	October 5, 2001
	)	
For: METHOD FOR ENRICHMENT OF	)	Atty. Docket: GILAD=2B
NATURAL ANTISENSE...	)	

RESPONSE TO NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice of Incomplete Reply
(Nonprovisional) dated October 2, 2001, a petition for a two
month extension of time being attached hereto, and prior to the
examination of the above-described application, please amend
the present application as follows:

IN THE SEQUENCE LISTING

Please substitute the paper copy Sequence Listing
attached hereto for the Sequence Listing last filed on July 31,
2001.

REMARKS

Applicants have added into the present specification a substitute paper copy Sequence Listing section according to 37 C.F.R. §1.821(c). Furthermore, attached hereto is a 3 1/2" disk containing the "Sequence Listing" in computer readable form in accordance with 37 C.F.R. §1.821(e).

The following statement is provided to meet the requirements of 37 C.F.R. §1.825(a) and 1.825(b).

I hereby state, in accordance with 37 C.F.R. §1.825(a), that the amendments included in the substitute sheets of the sequence listing are believed to be supported in the application as filed and that the substitute sheets of the sequence listing are not believed to include new matter.

I hereby further state, in accordance with 37 C.F.R. §1.825(b), that the attached copy of the computer readable form is the same as the attached substitute paper copy of the sequence listing.

Under U.S. rules, each sequence must be classified in <213> as an "Artificial Sequence", a sequence of "Unknown" origin, or a sequence originating in a particular organism, identified by its scientific name.

Neither the rules nor the MPEP clarify the nature of the relationship which must exist between a listed sequence and an organism for that organism to be identified as the origin of the sequence under <213>.

Hence, counsel may choose to identify a listed sequence as associated with a particular organism even though

that sequence does not occur in nature by itself in that organism (it may be, e.g., an epitopic fragment of a naturally occurring protein, or a cDNA of a naturally occurring mRNA, or even a substitution mutant of a naturally occurring sequence). Hence, the identification of an organism in <213> should not be construed as an admission that the sequence *per se* occurs in nature in said organism.

Similarly, designation of a sequence as "artificial" should not be construed as a representation that the sequence has no association with any organism. For example, a primer or probe may be designated as "artificial" even though it is necessarily complementary to some target sequence, which may occur in nature. Or an "artificial" sequence may be a substitution mutant of a natural sequence, or a chimera of two or more natural sequences, or a cDNA (i.e., intron-free sequence) corresponding to an intron-containing gene, or otherwise a fragment of a natural sequence.

The Examiner should be able to judge the relationship of the enumerated sequences to natural sequences by giving full consideration to the specification, the art cited therein, any further art cited in an IDS, and the results of his or her sequence search against a database containing known natural sequences.

Applicants submit that the present application contains patentable subject matter and therefore urge the examiner to pass the case to issuance.
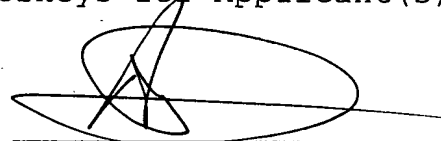
If the examiner has any questions or comments concerning the above described application, the examiner is urged to contact the undersigned at the phone number below.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By

Allen C. Yun
Registration No. 37,971

ACY:pr
624 Ninth Street, N.W.
Washington, D.C. 20001
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528

F:\,Q\QBI\Gilad2B\PTO\RESPONSE TO NOTICE TO COMPLY.wpd

#12

SEQUENCE LISTING

<110> GILAD, Shlomit
       EINAT, Paz
       GROSMAN, Avital

<120> METHOD FOR ENRICHMENT OF NATURAL ANTISENSE MESSENGER RNA

<130> GILAD=2B

<140> 09/833,031
<141> 2001-04-11

<150> 09/680,420
<151> 2000-10-06

<160> 29

<170> PatentIn version 3.1

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<223> Synthetic oligonucleotide primer

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<223> n is a, c, g or t.

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<213> Artificial Sequence

<220>
<223> Synthetic oligonucleotide primer

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<210> 3
<211> 22
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<213> Artificial Sequence

<220>
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<210> 4

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<220>
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gcggccgc                                                                   188


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<220>
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tcttgtctag agtctagcaa atatagtacc tttcattgca ggatttctgc ttaatataac   180

aagcaaaanc aaacaactga aaaaatataa accaaagcaa accaaacccc ccgctcaact   240

acaaatgtca atattgaatg aagcattaaa agacaaacat aaagtaactt cagcttttat   300

Page 4

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ggatgtaagc tgactctaga ccattngcgg ttcctgcgga tagcacagcc angatcatct    480

gaagatcatg ccaaatntca tgaccacggc aatgccgatg cccctgcgcc gatgatgngg    540

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<213>   Artificial Sequence

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cgccagcttc gataaggcca agctgaagaa aacggagacg caggagaaga acaccctgcc    180

gaccaaagag accattgagc aggagaagcg gagtgaaatt tcctaagatc ctggaggatt    240

tcctaccccc atcctcttcg agacccagt cgtgatgtgg aggaagagcc acctgcaaga     300

tggacacgag ccacaagctg cactgtgaac ctgggcactc cgtgccgatg ccaccggcct    360

gtgggtctct gaagggaccc cccccaatc ggactgccaa attctccggt ttgccccggg     420

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aaaaaaaaaa a                                                        491
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aaattagaag ataaaaacat acttttagaa gaaaaaagat aaatttaaac ctgaaaagta    180

ggaagcagaa aaaaaaaaaa aaaaaa                                         206
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<212>   DNA
<213>   Artificial Sequence
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Page 5

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cccttcctgc tgagagcagg cgagaggcag tcaggctcat gaagcagcca ccgggtttgg   180

ctcactggaa ggaatcacac tggaaa   206

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<213> Artificial Sequence

<220>
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ggacctacag agagggctct ttggtttgag gaccatggct tacctttcct gcctttgacc   120

catcacaccc catttcctcc tctttccctc tccccgctgc caaaaaaaaa aaaaaaa   178

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tgaattc   127

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<210>  21
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<213>  Artificial Sequence

<220>
<223>  PCR Amplified Human

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cccttgccct caataaataa agttctttttt tagttccaaa aaaaaaaaaa aaaaaagcgg      180

ccgctgaatt c                                                              191
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ttc                                                                       63
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cttgagcacg ttgaagcgca ctgtcttgct cagaggccgg cactcgccca ctgtgacgat      180

gtcaccgatc tggacgtccc tgaagcaggg gacaggtgt acagacatgt tcttgtggcg       240

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cctctgcatc ttcatcttgg tcaccacgcc agagaggatc cgccctcgaa tggacacatt      360

accaagtgaa ggggcatttc ttgtcaatgt aggtgccctc aatagcctcc ttgggtgtct      420
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Page 8

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gtgcagagcc ccaattccta cttcatggat gtgaaatgcc caggatgcta taaaatcacc     180

acggtcttta gccatgcaca aacggtagtt ttgtgtgttg ctgctccac tgtcctctgc      240

cagcctacag gaggaaaagc aaggcttaca gaaggatgtt ccttcaggag gaagcagcac     300

taaaagcact ctgagtcaag atgagtggga aaccatctca ataaacacat tttggataaa     360

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gagcccagtg acaccattga gaatgtcaaa gccaaaattc aagacaagga gggtatccca     180

cctgaccagc agcgtctgat atttgccggc aaacagctgg aggatggccg cactctctca     240

gactacaaca tccagaaaga gtccaccctg cacctggtgt tgcgcctgcg aggtggcatt     300

attgagcctt ctctccgcca gcttgcccag aaatacaact gcgacaagat gatctgccgc     360

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accaacaacc tgcgtcccaa gaagaaggtc aaataaggtg gttctttcct tgaagggcag     480

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actcatcctc tggcagctgg atcttgctgg ggtcgaagca gttggattcc atgatgggaa      180

ggccattggc ctctcggtat ttcacaagcc tctcagcttc gcggcgggac cactctttca      240

tcccatccca cgctcttgga caccctgtgc acctgtagtc aggcagatag gccacaaagg      300

tgctgccaag gaccangatg atggagacgc caaagaagaa gacaagtcgc atgttccaaa      360

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gcgggccggg aaccctcgcg tcgccgctgc cgccaaaaga ccgngaacgc tcaaccaaac      600

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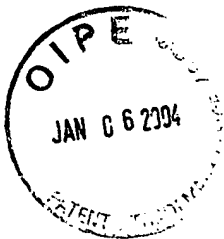
APPLICANT(S): GILAD et al.

APPLICATION NO: 09/833,031

DOCKET NO.: GILAD-2B

CONF. NO: _____

THE PATENT AND TRADEMARK OFFICE STAMP
HEREON ACKNOWLEDGES RECEIPT OF THE
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☒ FEES $ 200.00

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☒ EXTENSION OF TIME (2 MONTHS)

☐ TRANSMITTAL LETTER

☐ MISSING PARTS RESPONSE WITH DECL

☐ AMENDMENT

    ☐ PRELIMINARY   ☐ SUPPLEMENTAL

☐ REPLY TO OFFICE ACTION

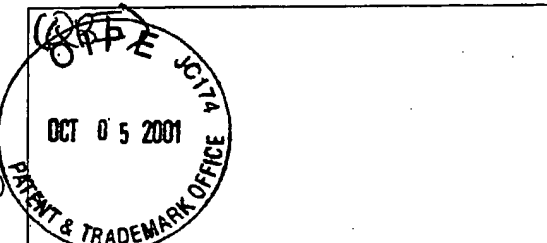☐ RESTRICTION/ELECTION REPLY

☐ SEQUENCE LISTING   ☐ WITH DISK

☐ RCE / CPA TRANSMITTAL (circle one)

☐ NOTICE OF APPEAL

☐ APPEAL BRIEF (TRIPLICATE)

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☒ OTHER _Response to Notice of Incomplete Reply Nonprovisional_

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☐ DECLARATION UNDER § _____

☐ LETTER TO DRAFTSMAN

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☐ MAINTENANCE FEE LETTER

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